

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ISRAEL SCHVIMMER and MIRIAM
SCHVIMMER,

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US DISTRICT COURT E.D.N.Y.

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X BROOKLYN OFFICE

Plaintiffs,

v.

DECISION & ORDER
18-CV-7419 (WFK)

THE OFFICE OF COURT ADMINISTRATION,
et al.,

Defendants.

X

WILLAM F. KUNTZ, II, United States District Judge:

On January 4, 2019, Israel Schwimmer and Miriam Schwimmer (“Plaintiffs”), proceeding *pro se*, filed an Amended Complaint against thirty defendants. Am. Compl., ECF No. 4. On March 27, 2019, David E. Oles, Sr. appeared before the Court in a pre-motion conference on behalf of Plaintiffs, who are no longer proceeding *pro se* in this action. Plaintiffs assert the following causes of action in connection with the removal of their child in a New York State Family Court proceeding: (1) negligent hiring; (2) negligent training; (3) negligent performance of duties; (4) malicious prosecution; (5) conspiracy; (6) civil rights violations under 42 U.S.C. § 1983; (7) enterprise corruption; and (8) intentional or negligent infliction of emotional distress. Plaintiffs purport to bring these claims under the First, Fourth, Fifth, Ninth, and Fourteenth Amendments of the United States Constitution, 18 U.S.C. §§ 241, 242, and 245, 42 U.S.C. §§ 1983, 1985, 1986, and 1988, and civil Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961 *et seq.* (“RICO”), and state law. Am. Compl. ¶ 1. Before the Court are Defendants’ motions to dismiss. ECF Nos. 40, 43, 47, 50, 57, 58, 76. Plaintiffs oppose the

motions. Pl.'s Response in Opp. to Mots. to Dismiss, ECF No. 55. Defendants submitted replies in support of their motions. ECF Nos. 64, 66, 71, 74, 78, 80.

Upon careful review of the motion papers filed in this action, and construing all factual allegations in a light most favorable to Plaintiffs, the Court finds Plaintiffs have failed to state a claim upon which relief can be granted, even construing their originally *pro se* papers "to make the strongest arguments they suggest." *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)) ("[A] complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'").

Accordingly, Defendants' motions to dismiss are hereby GRANTED in their entirety. Requests for costs and attorneys' fees are without merit. The Court denies Plaintiffs leave to amend as they have had ample time to file a second amended complaint since their counsel noticed his appearance on March 27, 2019. The Clerk of Court is respectfully directed to terminate the pending motions at ECF Nos. 40, 43, 47, 50, 57, 58, 76, to mark as moot the pending motions at ECF Nos. 81, 82, and 84, and to close this case.

SO ORDERED.

s/WFK

HON. WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

Dated: February 19, 2020
Brooklyn, New York